Structures of Access to Social Protection for Migrants

Ian MacAuslan
Rachel Sabates-Wheeler

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1. Introduction

Low-income migrants are often more vulnerable and have poorer access to social provisions than non-migrants. The ethical and moral arguments for the right or entitlement of migrants to social provisions have been discussed in Chapter 1. In this chapter we start from the hypothesis that being entitled or having a right to social provisions does not guarantee that it is actually received. Of course, receiving welfare provision depends on formal entitlements specified in international and national laws, regulations and policies. Provision can be granted, denied, controlled and obscured at this level. However, successfully claiming social provisions in practice turns on the way that individuals (formally entitled or not) are able to leverage opportunities for accessing resources. This hypothesis implies that getting the formal rules right is not enough.

A rigorous understanding of access must examine not only formal rules of entitlement, but also the distributional mechanisms through which that entitlement is provided, as well as the negotiations and bargaining that take place around those rules between claimants, rule-setters and providers (such as employers, administrators, friends and family). Even where migrants are formally entitled to social provisioning (and often they are not), they have unequal access for various reasons. Unequal access leads migrants to secure social protection from a range of sources: from the market, and from non-market distributions, including public distributions, charity or network-based relations. Using illustrative examples specific to migrants, this chapter develops a framework for analysing access to each type of source.

2. The basic components of an access framework

This chapter proposes a theoretical framework for analysing migrants’ access to social provisioning. The foundation of this framework is a recognition that in practice people lack equal access to productive opportunities and social provisioning. Differential endowments and imperfections in markets for goods, services and labour combine, in almost every society, to regularly and repeatedly exclude some groups and individuals (often including migrants) from both productive opportunities and social provisions, despite their formal entitlements to both. Delivering effective social provisioning for vulnerable groups and individuals, such as migrants, requires a deeper understanding of the structures that underlie this exclusion.

Our framework begins from two claims. First, individuals everywhere face threats (or risks) from various sources which impact their ability to provide adequately for themselves and those who depend on them. Second, inequalities in endowments and in access to human, financial and physical capital – and the associated inequalities in confidence and self-esteem – produce unequal outcomes that increase the frequency and negative consequences of these threats for those individuals and groups with poorer endowments and access. These threats to livelihood and the injustices of unequal opportunity and outcome motivate social provisioning, in order to protect people from threats and to reduce inequality.
We understand social provisioning, or what is (often pejoratively) referred to as welfare, as the provision of goods, services or jobs to protect people from and prevent the negative livelihood impacts of risk, and to reduce structural inequalities in opportunity. Consider three approaches to understanding social provisioning. Social provisioning can be seen as motivated by an ethics that condemns the unfairness of inequality (Rawls, 1971) and the injustice of some individuals and groups having significantly different levels of insecurity of livelihood than others (Sen, 2009). In another way, social provisioning that produces security and welfare can be seen as a ‘necessary supplement’ of the very social-political-economic world that generates these threats and inequalities: insecurity and ‘ill-fare’ (Bevan, 2004; Gough et al., 2004). By distributing some of the fruits of that world and maintaining a workforce in reasonable health, skill and contentment (at least content to the point of not radically challenging the status quo), social provisioning sustains the world that makes social provisioning necessary in the first place (Polanyi, 1944). Third, social provisioning can be analysed as another type of resource potentially available in this insecure world – susceptible to the same inequalities and problems of access and requiring the same negotiation and contestation.

These three ways of understanding social provisioning are not mutually exclusive, but suggest different approaches to the analysis of the distribution and receipt of provisioning. The ethical understanding typically analyses recipients as members of a group that confers certain entitlements, whether as a citizen of a nation state with legal rights to shared state resources or as a human with universal rights to a minimum level of well-being.

If, however, social provisioning is seen within a world that generates inequality and threat, and particularly if social provisioning is seen as a resource that must be negotiated, why should we expect access to social provisioning to be unproblematic, equal or fair? Even if we can show that all citizens or humans should be eligible for provisioning, this does not mean that all citizens or humans actually receive provisioning, receive provisioning in an equal way, or receive provisioning according to their needs (rather than the needs of the dominant economic system). To the contrary, there is a mass of evidence suggesting that social provisioning is not equally distributed and that it is in fact quite poorly distributed according to need. For example, it is found that the actual acquirers from non-market distribution systems are often not the intended beneficiaries: the ‘rich’ embezzle food distributed for the ‘poor’, homeless individuals are rarely included in cash distribution programmes (Dorward et al., 2006), and children who do not attend school are not provided with nutritional supplements (Britto, 2005). Case studies throughout this book give examples of migrants often receiving worse provisioning than non-migrants, despite greater specific need. Our theoretical framework therefore focuses on the difference between eligibility and actual access to social provisioning.

Our framework accommodates the wide range of sources and distribution systems of social provisioning. We understand social provisioning, broadly, as including the support of any of Sen’s four ‘entitlement’ relations: trade-based, production-based, own-labour, and inheritance and transfer entitlement (Sen, 1981). Social provisioning includes tax-funded benefits, emergency food aid, private insurance, individual charity, support to home production through subsidized input markets and non-government employment schemes. Social provisioning can be provided through a spectrum of market and non-market distribution systems. At one extreme, perfect markets have no formal restrictions on access, price or quantity (this is non-existent in practice, but consider an open market with unlimited quantities available), and at the other, non-market systems restrict access to certain individuals, and provide a fixed quantity at a fixed price (consider food aid provided in fixed quantities for free to all registered households in an
internally displaced persons camp). Provisioning may be formal (consider governments or organizations who distribute to those who meet a fixed criterion, such as chronic illness) or non-formal (consider individuals distributing alms outside a temple or church to those that appear needy). Furthermore, provision and distribution may be ‘legitimate’ (consider a regular migrant receiving free health care under the NHS) or ‘illegitimate’ (consider, for instance, the practice whereby irregular migrants ‘borrow’ national insurance numbers from regular migrants in order to enter the labour force). In between, there are many combinations of these extremes and many variations on these features (consider, for example, market-based pensions that are topped up by state non-market distribution).

As we are specifically concerned with access from the point of view of the migrant at the point of need, we suggest analysing the underpinning norms, rules and procedures that govern access with respect to their relationship with those seeking to participate in the system. We refer to these participants as ‘claimants’ (who may be applicants to non-market distributions, buyers of products in a market, workers, or recipients of informal or network-based assistance) and providers (who may be rule-makers or rule-administrators of non-market systems, sellers, employers or patrons).

These broad outlines suggest a range of questions. For instance, what are the physical, financial, relational and institutional constraints to welfare provisioning at any given point? What are the structures of access at the point at which a migrant interfaces with a provider? And, how does the migrant or patron strategize to overcome constraints? These questions are useful for analysing any system of provisioning. However, the answers play out differently according to the relational or distributional basis underpinning each system. Below we investigate these relationships in order to build a conceptual framework for understanding access.

3. Access under different distribution systems

Let us consider the two extremes of market and non-market access. In a perfect market, all constraints of knowledge, market existence and supply are assumed away: the only requirement is that the buyer provides sufficient exchange value to obtain the good or service required. Acquiring goods from non-market distribution systems requires the applicant to have knowledge of the provision, perhaps to provide an exchange value, and to meet some eligibility/targeting criteria (such as nationality, poverty or age). This often requires providing data (such as a passport or an income or birth certificate), or having the right social relations (such as being part of a church or community) or being part of the right networks (such as a savings group).

3.1. Market systems

It is evident that it is not straightforward to obtain resources from either perfect markets or non-market systems. Under the strict assumption of perfect markets, information, services, goods and supply would all adjust and re-adjust to clear the market at any given price. The resulting allocation would be Pareto efficient.\(^1\) For instance, if an insurance product was made available, people would have full information on the product, would demand the amount of insurance that would reflect their risk preference, and supply would respond perfectly as there would be no moral hazard constraints (such that no one would engage in riskier behaviour because they were insured). The only restriction to an equitable market outcome would be the unequal distribution of resources that would exclude some people from entering the market at a given price. Because
of this exclusion, a role exists for the state (even within neo-liberal welfare economics) in ensuring that some wealth is redistributed to those at the bottom.

However, in the real world of imperfect markets, while the market will be able to provide many welfare needs around obtaining and sustaining an adequate income (from labour markets, markets for private insurance, house insurance, health insurance, childcare provision and so on), the availability of these welfare provisions will depend on a range of formal rules, institutional constraints, missing markets, informational asymmetries, access to resources and access to political capital. Specifically, in imperfect markets many markets may not exist (for instance, credit, labour, finance and insurance). Those seeking to acquire goods may not know about the markets, or may not be able to engage with them (for instance if they do not speak the right language). Sellers may be unwilling to sell to certain buyers because they discriminate against them, or because they lack the basic trust required for any exchange to take place (for example, they may not believe that the buyer will actually provide the exchange value for the good or service provided, or vice versa).

The brief discussion above has illustrated that simply relaxing the ‘perfect’ market assumption (while staying within the parameters of mainstream economic theory), creates space for inequities in access beyond those determined by income. However, more fundamental access problems arise once we problematize the notion of the market as a neutral place of exchange. The vibrant critique of the notion of ‘neutral’ markets comes from the feminist economics literature (Folbre, 1994; Elson, 1999) and can be paraphrased as follows. The market, as defined by economics, is a neutral arena in which buyers and sellers interact. These agents may be differentiated by a number of characteristics, such as gender, class, ethnicity and nationality, and they will have a range of endowments and preferences. ‘Discrimination’ in the market is acknowledged by economists as the existence of significant pay differentials that are unexplainable by education, training and work experience. This discrimination is interpreted as a residual in economic models, reflecting employers’ and employees’ preferences that are not formalised. But within market theory it remains a puzzle as it is not a profit-maximizing strategy.

The problem with this ‘preference’ approach to explain ‘discrimination’ is that it ignores broader structures of disadvantage and maldistribution. These structures translate into certain groups being less educated and less able to accumulate the same experience as the more dominant or powerful group in any given society. Elson (1999) provides a useful discussion of these processes and structures of disadvantage, embedded in labour market institutions, which serve to maintain and entrench gender inequalities and exclusion. Building on Whitehead (1979), Elson begins from the idea that markets are institutions which are ‘bearers of gender’. This refers to the notion that there are social stereotypes about what constitutes men’s work and what constitutes women’s work. This analysis can easily be applied to the case of migrants and their position relative to native populations at the destination. If markets as social institutions are ‘bearers of gender’ or class or nationalism, this means that market systems and rules, such as payment systems, job evaluation criteria, trade unions, policies and so on, always have scope for discretion in their application.

It is often assumed that free or perfect markets equate with economic efficiency in terms of resource use. However, it is clear that the notion of a ‘free’ market is only an ideal and that anything less than a ‘free’ market will mean that distribution will be discretionary based. This is particularly important for the case of migrants as it implies that access to provision is not based on merit or need but on discretion and possibly discrimination. Markets will always need to be regulated to some extent, which necessarily requires a governing authority (Sawyer, 1995). This
authority is typically overseen and vested in the hands of the state. The questions then become: whose interests does the regulation serve? What kinds of norms and perceptions does it promote? The fact is that those in power are not only interested in economic relations but in perpetuating their advantage in the social and political spheres – whether they be based on gender, nationality, class or ethnicity. Furthermore, once we acknowledge that not everyone in markets is equally well informed and has complete information about opportunities, and that these asymmetries can be created and entrenched by discretion-based distribution systems, it is clear that some less empowered groups will have more difficulties accessing markets than other more powerful groups.

3.2. Non-market systems

In non-market systems, we find a slightly different mix of access constraints. Non-market distribution systems are not set up directly for economic gain, but are deliberate attempts to achieve some welfare or political objectives. Non-market distributions therefore differ from markets by deliberately restricting eligibility for the resource distributed and requiring evidence to prove eligibility. Usually an exchange value is not required, but such markets retain a similar set of access constraints as imperfect markets: claimants may lack information about the distribution, and may suffer resource constraints (such as time, money and so on). All social provisioning that provides resources through non-market distribution systems restricts eligibility, whether explicitly (for example, through published programme eligibility criteria) or implicitly (for example, by personal charitable choice). These restrictions have the intention of ‘targeting’ a particular group. Targeting helps, for instance, to improve administrative efficiency or reduce programme costs (Sharp, 2001); improve equity outcomes (Schaffer and Lamb, 1981), exclude some undesirable or undeserving group (Wood, 1985), or solve a problem of distributing insufficient resources. A second difference from markets is that non-market systems are often public. This means that claimants and non-claimants can influence the eligibility rules, access structures and eventual distribution through advocacy and protest (‘voice’). Voice usually aims to improve allocations for the group as a whole (Schaffer, 1986). Finally, non-market distribution systems, like imperfect markets, are open to manipulation where claimants seek to improve their individual allocations using social ties, authority and influence or payments (Schaffer and Wen-Hsien, 1975). Likewise, individual administrators negotiate around the formal rules (von Benda-Beckmann et al., 1989) and interpret the rules unfavourably for some claimants and favourably for others, and may invent their own informal, changeable, unpredictable rules (as patrons do in personal charity).

Non-market systems are operated by governments, civil society organizations (such as non-government organizations (NGOs) or faith-based organizations (FBOs)), or by individuals seeking to distribute charity. In each case, actual access to the resources distributed depends on negotiations between claimants and providers. The formal rules and access structures merely provide a framework for this negotiation. Each type of system, however, implies rather different objectives, rules and structures for restricting access, and different opportunities for expressing ‘voice’ and for negotiation. The question is whether migrants are well equipped for these negotiations, relative to the rest of the population.

Government non-market distribution systems (re)distribute resources to influential or vulnerable groups (or both), reflecting political and economic strategy or a concern for equity and welfare, depending on each context. Some groups, such as non-citizens or the non-poor, are simply excluded by the rules. For example, the distribution of government food aid to all citizens
may require that citizens provide some form of identification, such as a passport, which they may not have or which administrators may not trust. This requirement makes it very difficult for non-citizens to obtain the resource. Other groups may be excluded by administrators who bend rules because they are motivated by prejudice or time pressure (Lipsky, 1980). The first options for redress for those excluded might be negotiation with providers or administratively sanctioned appeal. These low cost attempts to improve individual allocations can be seen as ‘competitive’, since improvements in individual allocations come potentially at the expense of others’ allocations. However, eligibility and selection rules and the rules for allocating resources can also be influenced by ‘collective’ voice. Collective voice influences the distribution of power within a polity, through democratic debate or by direct access to rule-makers such as politicians and civil servants. Particularly in the case of government provision, (excluded) claimants can therefore resort to mobilization: ‘the forming of like minded groups, of parties and rallies, and of … riots’ (Schaffer and Lamb, 1974, p. 83). Mobilization is more likely when allocation rules are simpler and therefore more difficult to manipulate (Schaffer, 1986). This collective voice may lead to better improvements for migrants than competitive voice. There are various examples of immigrant political participation, as part of wider groups or alone, leading to improvements in their provisioning. For instance, immigrant workers may join domestic colleagues in mobilizing for improved labour conditions (see Però and Solomos, 2010, for an overview of migrant mobilization).

The rules of civil society distributions (through NGOs or FBOs, for example) also deliberately exclude groups. An NGO may decide to provide support to people living with HIV and AIDS (PLWHA), which requires identifying PLWHA and excluding those not identified. Actual allocations are also subject to negotiation between claimants and providers (and there is plenty of evidence showing this, as is clear from any analysis of programmes’ targeting performance that finds inclusion and exclusion errors). However, these rules may be harder to influence through collective action, unless the organization invites participation in the definition of eligible groups or selection rules. Consider, for instance, programmes that consult the community when designing targeting criteria or rules – a consultation that often reflects migrants’ interests poorly if they are not considered ‘part of the community’. Usually, civil society distributions are based on a decision made independently by the organization, and eligibility criteria and rules are designed on a basis of need (for example, poverty targeting) or group membership (for example, being Catholic). This contrast with government distributions arises from their different relationships with the groups with whom they work. Civil society organizations need the permission of local authorities and informal acceptance by members of local populations to work. However, they are typically not directly and formally accountable to these populations and there are rarely formal channels for collective voice around civil society organizations. Governments, by contrast, are usually subject to a formal social contract (such as a Constitution), elections and the threat of expulsion.

Individual distributions restrict access not through formal rules or requirements for payment, but through decisions made by the individual who is distributing. Sometimes, these decisions have a system (consider, for instance, the distribution of alms after church each day), and sometimes these decisions are more random (such as giving money to a beggar on the street). The eventual allocation of resources will depend on knowing about the distribution, being noticed and not suffering discrimination, and luck.

In each type of non-market distribution, claimants attempting to negotiate better access or rule changes typically use brokerage through three types of intermediaries. ‘Representatives’
have better knowledge of the rules or better ways of circumventing them, ‘Fixers’ may change the rules or secure particular application by intervention higher up in the institutional hierarchy and ‘Agents’ find alternative sources of provisioning (Schaffer, 1986, p. 374). Migrants exercising voice frequently associate with these intermediaries (Però and Solomos, 2010). They may indeed rely on them, given migrants’ own often precarious relationship with the state. In India, for instance, middle-class activists advocate to policy-makers on migrants’ behalf for better social provisioning (see Chapter 6). The risk is that migrants are fragmented, poorly incorporated politically, and that professional advocates can act paternalistically, or arrogantly (Self, 1986) or unsystematically.

3.3. Network-based systems

Social provisioning can also be found in informal non-market systems, such as networks. Social networks and relationships act as a form of club good. In the market framework entry conditions to club goods are determined by financial, status and knowledge barriers. Formal non-market systems have explicit rules. In network systems, by contrast, entry is based on relations of trust and reciprocity, necessarily built up through repeated interactions between the people involved. Financial conditions for entry also play an important role (for instance, in the case of burial societies, rotating savings funds or hometown association membership). However, the primary condition for entry is through relational and status-based affiliation (family relations or ethnic solidarity). Stewart’s theory of group behaviour helps to inform our understanding of how these types of groups work to ensure positive outcomes. She labels Trust/Reciprocity (T/R) groups as those characterized by members’ high degree of commitment to the group, which leads to trust, so that actions are carried out in the belief that they will be reciprocated at some time. This mode of operation generally evolves as a result of repeated interactions of long duration. Societal norms, as well as individual values, are relevant to the strength and nature of the T/R norms. T/R groups may also be efficiency enhancing because T/R minimizes government involvement and monitoring and makes the most of local knowledge (Baland and Platteau, 1996; Stewart, 1996; Heyer et al., 2002).

Network-based affiliation and distribution provide important functions under high levels of uncertainty. Subsistence assurance and risk mitigation are the most valuable functions (see work by Sabates-Wheeler (2005), in the context of transition agriculture). To the extent that people are cut off or excluded from formal insurance and social service provisions, they need to insure downside risk through other avenues. Similarly, in places with thin state-sponsored and market-provided social protection, migrants face the full risk and uncertainty of market fluctuations and institutional/legal changes. In these cases the group substitutes for imperfect markets. Various social provisioning systems are rooted in cultural norms, for instance payment into hometown associations. Pooling of resources and mutual assistance (for example, savings groups, burial societies, fostering and childcare) can lower the risk for a particular individual or household from livelihood crises. In this way the network is seen as an insurance mechanism for maintaining a certain level of livelihood. Furthermore, different risks may be minimized through different strategies. That is, a regular migrant may choose to opt into formal health insurance but not into a formal pension scheme. This could be because the migrant’s time preference may mean she or he would rather invest in property or children’s education at source location than a pension at destination. Or it may be that pension payments are difficult to claim upon leaving the country. The point is that migrants will choose and invest in a portfolio of risk management mechanisms; some labour market based, some non-market based and some network based.
Clearly, some migrants will be more constrained than others in this choice, depending on their migration status and the resources available to them. However, this is not a trade-off between distribution systems. Instead, distribution systems are mixed to achieve optimal risk insurance under the constraints given.

While social networks built on repeated personal interaction and trust provide, in many cases, a comfortable fall-back position, acquiring goods and services through these networks is not straightforward. First, there is the issue of covariate risk and shocks that hit the entire network. Group cooperation gives some protection against idiosyncratic risk and mild to medium covariate risk. For instance, in the case of unemployment of one member, the group can provide subsistence support (food and housing) while that member finds another job. However, if all the members of the group are made redundant at the same time then the outcome may be devastating. Second, and in the same vein as a club good provided by market-based systems, network-based systems typically use exclusion-based eligibility criteria, where certain individuals and households living in traditional sending localities may be discriminated against because of issues of culture and identity such as gender, ethnicity, religion, family association and caste. Certain groups may lack access to migrant networks, where these develop within cultural boundaries.

4. A framework for access

Drawing the above discussions together, Table 1 sets out the range of access constraints in different distribution systems. Very approximately, financial constraints are more likely to be significant in markets, and other constraints (aside from formal eligibility rules) tend to increase in magnitude as distribution systems become more personalized, ad hoc and discretionary.

In this table, the darker shades represent ‘harder’ access constraints. In market systems, for instance, financial constraints (insufficient financial endowments) present serious constraints as claimants need to buy provisioning (such as insurance). Financial constraints are rarer in most non-market distribution (and non-contributory) systems. In perfect markets there are only financial constraints, but in imperfect markets, and especially in command economies, buyers may lack information or be discriminated against, or the market may simply not exist. In command economies, some claimants may be excluded by the rules of the economy or may lack the networks needed to obtain the resource. In non-market distributions, information can also be a constraint, and the absence of networks is a more serious restriction than for most markets, particularly for the more personal and network-based distributions where individual patrons’ relationships affect their distributions. In non-market and imperfect market distributions, there is a question of whether the resource sought is provided at all. Under perfect market assumptions, there is a market for every good demanded. However, distribution systems in practice do not supply all resources demanded, and personal and group-based distributions may be particularly limited. Group affiliation is relevant to both market and non-market distributions, but it is differentiated by the nature of the exchange. In non-market, network-based systems the affiliation is based on reciprocity and trust, while in market systems rules and contracts are required to uphold exchange relationships. Non-market distributions may also involve more discrimination than found in most markets, especially where individual patrons distribute their goods/services personally. Finally, most non-market distributions operate according to fixed rules that may exclude many claimants, and often require demonstrations of legality that can exclude migrants.
Table 1: Access constraints in different distribution systems

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<td>Group/network affiliation</td>
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4.1. Migrants in market-based distribution systems

Even without elaborate theorizing, it is easy to see that markets necessarily find their modus operandi within political-economic structures. In any national labour market, for instance, the ability of people to participate is defined by immigration laws and labour laws. Entry is prohibited for certain categories of people due to their legal relation to the state in which the market functions. This equally applies to financial markets. For example, in South Africa and increasingly in the UK, it is impossible to open a bank account and access a range of private markets without a permanent residency status as ascribed by the state and, in South Africa, reflected in a specific 13-digit ID number. Furthermore, many financial systems for remitting income safely require a form of ‘legitimate’ ID. In this way markets, through their subordination to states, become discretionary and exclusionary, translating into access constraints for some and not for others.

It is obvious that in the context of labour markets and financial markets, exclusion is intensified for migrants. It is not merely the case that the state imposes demands on how the market functions, but that the market requires the state for smooth functioning. In order for the multitude of arms-length contracts that comprise any market to be upheld, a regulatory framework must be in place that enables the smooth functioning of the market. This regulation, by definition, excludes and includes on a discretionary basis. As early as 1967, Rex and Moore argued that exclusion of immigrants in the Sparkbrook area of Birmingham from both council housing and from mortgages drove them into ownership and tenancy of poor quality, overcrowded and high rent lodging houses.

Immigration status is an important component of racial and ethnic disparities in health insurance coverage and access to care. In the USA, non-citizen immigrants and their children have large gaps in their health insurance coverage and access to health care, even when the children are citizens. The disparity in access has two components. First, non-citizens and their
children are much more likely to be uninsured. Since insurance strongly increases access to care, lack of insurance reduces immigrants’ ability to get care. Second, even insured non-citizens and their children have less access to medical care than insured native-born citizens have (Ku and Matani, 2001). This is suggestive of the discretionary and value-laden workings of the market.

From a policy perspective, the insurance gaps for citizen children in immigrant families are distressing, since they are eligible for health insurance through Children’s Medicaid and the Children’s Health Insurance Program (CHIP) and are a major target of outreach campaigns. In fact the insurance coverage of the US-born children of immigrants has fallen in recent years. Furthermore, non-citizen families have poor access to both ambulatory medical and emergency room care. The gap in emergency care is particularly relevant because federal policy lets non-citizen immigrants, including undocumented aliens, receive emergency Medicaid services, even if they are ineligible for full coverage. Non-citizens and their children also have worse access to both regular ambulatory and emergency care, even when insured. It is thus important to consider strategies to foster private job-based health insurance for immigrant workers and their families. A recent study found that non-citizen workers in California were offered health insurance less often than citizens were, but that their take-up of insurance offers was similar. Immigrants encounter other non-financial health care barriers that relate to information. Language problems were the leading barrier to child health services cited by Latino parents; they may also increase medical errors because of misdiagnosis and misunderstanding of physicians’ orders.

Another example comes from the UK. Legal status, defined by the nature of residency within the UK, defines the rights of any category of migrant to different types of social protection. Migrants to the UK who hold entry visas but not work permits are not permitted to obtain employment within the UK. They are entitled to public health care in cases of emergency, but no other social benefits. However, evidence shows that a substantial number of Ghanaians and Malawians visiting the UK on entry/tourist visas obtain employment without work permits. Many of them work in the informal sector, however, many also work in the health sector, as nurses and doctors, and others work in business. Within these groups, many incur ‘deductions’ from their salaries (for national insurance or other taxes) yet are unable to claim standard social security benefits from their place of employment (such as maternity and sick leave or redundancy packages). However, in cases of health emergencies some employers provide informal payments to illegal workers. Some employers also provide housing (typically highly inadequate) to attract cheap workers. Access to these benefits is discretionary and clientelistic. While employers may be willing to employ ‘illegal workers’, thus enabling irregular workers to acquire an income, employers may have incentives to illegally ‘tax’ the irregular worker’s income. This arrangement is clearly beneficial to both parties. However, it represents forgone income for the national government budget and often the migrant becomes severely exploited as their legal status does not privilege them with the right to question their employment situation. The extent of infringement on human rights versus labour rights/entitlements becomes highly blurred in the context of irregular migrant labour. Many times migrants are ignorant of their rights or are scared to pursue these rights, making access highly political. This example highlights the complexity of access within market environments.

‘Free markets’ work well once one has fulfilled a range of criteria related to residency and employment as defined by a ruling body. In this way the market acts as a club good. But if one’s relation to the state is ambiguous or ill-defined, as these examples of migrants show, then markets will never produce optimal outcomes.
Our framework above demonstrated that migrants may be relatively disadvantaged in their access to non-market distributions because (1) the formal rules exclude them, (2) eligible migrants often face higher costs of proving eligibility, (3) they fare poorly in negotiations with administrators, and (4) they are less able than non-migrants to engage with the rule-makers.

Formal rules render migrants ineligible for social provisioning when governments are trying to deter migration (usually of low-income groups in the informal economy) or are unwilling or unable to adjust distribution systems to mobile populations, or because migrants are not seen as a core part of a constituency or risk pool. Research on India’s Public Distribution System (PDS, a national food subsidy programme) provides examples of the first two kinds (see Sabates-Wheeler and MacAuslan, 2007; MacAuslan, Chapter 7 in this volume). The Delhi government decreed that households migrating to slum areas between 1998 and 2007 would be ineligible for the programme, partly in order to deter migration (as membership of the programme also implies residence rights). Interviews with officials and some official documents betray a concern about additional migration. Moreover, migrants are de facto rendered ineligible because local quotas for programme membership are fixed for several years, and are not updated to account for new migrants, irrespective of need. To take another example, many European social security programmes de jure or de facto exclude illegal immigrants from contributing to or receiving from social insurance on the basis of their illegal status. Despite the value of illegal immigrants’ participation to both the social security system and members of the system, immigration law trumps social security rationales.

Migration comes with non-trivial costs of establishing eligibility. For many programmes, migrants need to acquire new documentation proving their eligibility every time they cross an administrative boundary. The exclusionary effects of high time costs imposed on migrants to reapply for their entitlements after moving is evident in the case of the PDS, where many temporary migrants to Delhi are unable to meet these costs and so do not benefit from subsidized grain. Moreover, many migrants simply cannot obtain the required identity documents (Sabates-Wheeler, 2005; Smita, 2006), particularly if they are irregular (see chapters in this volume on migrants’ problems accessing health care in the UK).

Migrants’ ability to negotiate with administrators is constrained by their precarious legal status or lack of personal connections. For instance, while claimants can often use administratively sanctioned modes of appeal, Schwartz (2001) suggests immigrants may avoid this in claiming food stamps to avoid disclosing their immigrant status.

For similar reasons, migrants’ political access is often restricted. MacAuslan (this volume) argues that temporary migrants’ political access to alter Public Distribution System rules is limited by their disorganization and transience, which together mean they do not form a visible political constituency. Their ability to work through intermediaries is limited by their social dislocation.

4.3. Migrants in network-based systems

Network-based sources of welfare and provision are especially critical for people who are ineligible for or excluded from formal or market-based provisions. As illustrated in Table 1, ineligibility and exclusion from more formal systems can be due to a lack of finance, information, voice and representation, but can also be due to the legal structures and social norms that may purposely (or not) serve to exclude. For many poor people, and poor migrants in
particular, access and distribution through social ties is often the only form that their safety net provision takes. For instance, social networks and affiliations with institutions such as trade unions, community-based organizations, and other relatives or friends facilitate labour migration by providing initial accommodation and employment at destination or information on employment opportunities, thus facilitating job searches. Another example is childcare provision for working female migrants. This is often accessed reciprocally through network-based relationships. Health care networks are also vital. Qualitative research with Ghanaians in the UK found that elaborate network-based systems exist within the organized Ghanaian community that enable irregular migrants to access a parallel health service to that provided by the British public sector. For example, a pregnant irregular migrant can be assigned a Ghanaian midwife for most antenatal care. She can access this parallel system until the point of delivery, at which point she will present herself to public sector emergency care (Sabates-Wheeler, 2008).

While network-based systems can provide a range of provisioning to migrants, they may also constrain the migrant. In a similar way to the possibility described by Wood (2003) of adverse incorporation into market and formal provisioning systems, people may be unable to exit from a network once they become embedded into it. In network-based provisioning systems, moral economy factors exist to ensure cooperation in times of hardship. While network-based forms of social provisions can provide a stable safety net, they may also act as a constraint, in the sense that people engaged in these networks are not always free to leave due to possible recriminations from relatives and other family members. In other words, there is a social lumpiness that comes with grouping around family and friends that can be both constraint alleviating and choice constraining. Hence, risk management in the present involves loyalty to institutions and organizations that presently work and deliver livelihoods, whatever the longer term cost.

For instance, on the latter point, domestic and familial responsibilities as well as traditional divisions of labour limit migration opportunities for women, particularly in sub-Saharan Africa. For example, Hampshire (2002) found that Fulani women have inequitable access to migration networks used by men. Furthermore, relatively low levels of education and lower wages at destination discourage female migration, as Agesa and Agesa (1999) found in their study of rural to urban migration in Kenya. The impact of widespread male labour migration can lead to long-term disempowerment of women who become dependent on men for cash, as evidenced in Bihar in India as well as parts of eastern and southern Africa (Francis, 2002).

So, in a similar way to market and state-based distribution systems, network-based systems represent both opportunities and constrains to welfare provision. The ‘trust’ pillars upon which they build are qualitatively different to other distribution systems, and in this sense they could be argued to be more stable and reliable over time. However, the level of provision is constrained by the homogeneity of the group characteristics as well as by eligibility criteria.

5. Rules of inclusion and exclusion in a relational framework

How can we analyse the relational content of these different distribution systems? In our framework, distribution is carried out by organizations composed of ‘rule-makers’ and ‘providers’ that admit or exclude ‘claimants’ through certain criteria and processes (Schaffer, 1973, 1986; Schaffer and Lamb, 1981). Each system may be different in the way that the relation between claimant and provider presents itself. For instance, in a market-based system the rules for participation may be hidden and covert (hiring and employment practices), whereas in a
government-based system the criteria are more likely to be explicitly stated. Any institution that provides goods, services or jobs sets up an access structure that regulates how resources are obtained. This may be explicit or implicit and through the market, or through non-market distributions including personal distribution, or through networks. Each access structure has three basic components described by metaphors (sometimes real) of the ‘gate’, the ‘line’ and the ‘counter’ (Schaffer, 1973; Schaffer and Lamb, 1974). Interactions at these points follow different types of rules (Schaffer and Wen-Hsien, 1975). The ‘gate’ requires the claimant to claim eligibility: admission rules. The ‘line’ is a mechanism that places eligible claimants in some order: line rules. The ‘counter’ is the office or meeting point where the actual allocation or refusal takes place, dictated by rules concerning what types of data will be considered to prove eligibility: counter rules. Together, these components and their rules dictate the structure of the ‘queue’.

Schaffer and colleagues initially developed this metaphor for non-market formal distribution systems, but we suggest that this applies to informal systems and market-based systems of distribution as well. The metaphor of the queue can be applied to a market system, where buyers access the market subject to certain admission criteria, are ordered in some way, and then purchase the resource when they provide certain exchange values. In perfect markets, there are no admission criteria and there is no ordering or waiting, and the only thing that buyers need to present is an exchange value. In imperfect markets, however, admission and line rules may apply and counter rules can become more complex. For example, in credit or insurance markets buyers often need to provide collateral or evidence of health. In informal distribution systems, eligibility rules are often based on subjectivity (being known to the distributors) and counter rules require merely the appearance of need (to those distributing).

In a perfect market, or in a Weberian ideal type non-market distribution system, success in the queue requires meeting the eligibility criteria, waiting in line and producing the correct data at the counter. Since claimants know the rules (and therefore the cost of applying) and the value of the resource that is offered (distributed, sold or given away), they can calculate whether or not to enter the market or apply for the resource. However, the ideal type queue, like the perfect market, never obtains in reality. Instead, we find ‘complex queues’ that can deviate from the ideal type (Schaffer and Wen-Hsien, 1975) in terms of structure, claimants’ behaviour and providers’ behaviour. These deviations may disadvantage migrants for a number of reasons, as already described.

First, complex queues have different structures with supplementary gates of language, social class or ethnicity that can exclude migrants very easily. Queues may be contiguous: the resource sought in one queue may be the eligibility criterion for joining another. For instance, acquiring cash under Mexico’s PROGRESA system required enrolment and attendance at schools and health clinics. Migrant households whose children do not attend school are formally excluded from this cash distribution system, despite their poverty (Stecklov et al., 2005).

Second, claimants in complex queues deviate from their ideal type. They may not have the basic ‘cultural resource’ of knowing which queue to join (Schaffer, 1971, p. 14), as in distributions from patrons whose habits are known to few recipients, and rarely to migrants. They may not know or understand their relationship to the admission rules (see also de Haan and Maxwell, 1998; and Sen, 2000), and line rules can be ‘strange, unfamiliar and frightening to applicants’ (Schaffer, 1973, p. 8). Even if the migrant does know the requirements, at ‘the counter … [claimants] may not know how to present the information. The needier the [claimant] the greater this difficulty tends to be. This is a problem of literacy, time, research, legal
processes, entitlement and registration conflicts, indebtedness, disputes, contests, and arrears’ (Schaffer, 1973, p. 8). Studies indicate that migrants lack the knowledge, language skills and confidence required to access health care (Stephenson and Matthews, 2004) or food stamps (Schwartz, 2001). Migrants seeking to benefit from charity-based distributions may not know where individuals distribute their donations, or may not be able to gain access to a church to receive alms if they look different from other churchgoers (and may be assumed not to be the relevant religious denomination) or cannot communicate effectively with church authorities. Claimants may also feel put off by admission, line or counter rules that carry additional connotations that suggest unfairness or stigma (see also Sen, 2000).

Third, providers exercise discretion over gate, line and counter interactions, either because the rules require it (they are ambiguous or conflicting, see Schaffer, 1973) or because they have objectives that will not be met by following the rules (see Lipsky, 1980, for a more detailed treatment of discretion in the provision of public services). In the queuing process, claimants present themselves as simplified and compartmentalized ‘cases’, detached from their personalities, histories and stories (Lamb, 1975; Wood, 1986). In these circumstances, migrants are often not able to demonstrate that they are the intended recipients (the income-poor, HIV/AIDS sufferers, the elderly and so on).

Faced with these challenges, rule-makers may clarify access criteria (often under pressure from claimants or their representatives). Where this does not happen (perhaps because complex access structures limit claims in a way that benefits rule-makers) providers resort to non-formal criteria in admitting claimants, deciding in which order to serve people and accepting data. Very often, these criteria take the form of exchanges, often pejoratively called corruption (Schaffer, 1986). Other criteria include affinity, friendship, social ties and subjective perceptions of influence, or of suitability for the resource (most commonly in personal charity but present also in formal schemes).

5.1. Reconciling the relationship between claimant and provider

Queues for social provisioning are complex. The features of complex queues suggest that claimants’ endowments and needs will not necessarily be reconciled easily with providers’ access structures (Schaffer, 1971, 1973, and 1986). ‘Reconciliation’ will not involve a simple pairing of applicant characteristics with bureaucratic rules, or exchange values with resources, or need with availability, but will depend on claimants’ power, interests, attitudes and strategies (see also Keeley and Scoones, 2003, for parallels with complex policy processes). What strategies, then, can claimants deploy? And are any particular groups, such as migrants, who are disadvantaged in deploying these strategies?

Claimants’ attempts to access distribution from which they are excluded will tend to produce three types of action. They may exit from the system where the costs of deploying successful strategies are too high (or en masse as a form of boycott). They may remain loyal to the system that might involve adverse incorporation and dependency. They may use voice, negotiation and protest (Hirschman, 1970; Schaffer and Lamb, 1974).

As discussed in Section 4.2 above, loyalty can involve uncritically accepting whatever investments (of time, money and so on) are required in order to obtain the resource. Claimants may do this because they feel that protesting against the implicit or explicit rules of the distribution will have longer term consequences or consequences in other queues. For instance, migrants may not protest against non-receipt of health benefits because they fear deportation.
Alternatively, group members may not protest against unfair allocations of benefits for fear of being forced out of the group. Or it may be because claimants feel they lack the right to protest, as when they receive charity from individuals on an *ad hoc* basis. Wood (2003) proposes that poor people are dominated by dysfunctional time preference behaviour (in the sense that pursuit of current consumption may outweigh future well-being), in which the pursuit of immediately needed security places them in relationships and structures which then displace the longer term prospects of a sustained improvement in livelihoods. This is likely intensified for poor migrants. For instance, irregular labour migrants in the domestic service sector may be ‘bonded’ to their employers through positive dependency or threat. Similar to the possibility of adverse incorporation into market and formal provisioning systems (described above), people may be unable to exit from a network-based system once they are embedded into it (also discussed in Section 4.3 above).

Under adverse circumstances, many claimants will choose the more activist, complex and pervasive option of voice (described in Section 3.2 above). Schaffer and Lamb (1974, p. 79) argue that ‘[claimants] themselves will be forced to employ voice so as to handle their opportunities, to defend themselves, to succeed, to refute stigma, etc., at all points of the access experience’. When denied opportunities to purchase in a market, buyers can protest at the high price of goods (this is especially common where the government plays a role in setting prices), or organize in groups to boycott sellers or buyers (consider a strike) or engage in barter with the seller. Recipients of charity, such as beggars, may protest at small allocations or at being ignored in order to increase their gift. In networks, claimants may strategically emphasize their need to increase their share by advertising their poverty or bemoaning their ill luck. In terms of non-market systems, the recognition that *claimants’* voice pervades all access situations could complement social protection literature that refers to *programmes* ‘inclusion’ and ‘exclusion’ errors. Claimants use different forms of voice depending on their resources, the rules of the distribution system and their relationship to them, and the importance of the resource sought.

6. Conclusions

We believe that migrant welfare can best be secured by exploring and responding to access constraints to social provisioning. The right or entitlement of migrants to social provisions can be examined through the rules that structure access. While the analytical focus on eligibility and data rules can be mundane, the questions raised are crucial in determining access. Specified entitlements and rights are only as useful as the access structures that surround them. Much of this turns on the ability of individuals (formally entitled or not) to persuade employers and administrators of their eligibility for the resource. This approach suggests, then, that getting the formal rules right is not enough. A rigorous study of access must also examine the negotiations, bargaining, threatening and pleading that take place around those rules, between claimants and providers.

With the above framework in mind it is possible to check whether access structures enable those in need of social provisioning to obtain it and, in our case, whether migrants are disadvantaged in terms of their ability to acquire resources. To do this, one can examine the access constraints at various points of access to resources in markets and through non-market systems. For example, an imperfect market for insurance will not yield effective social provisioning for low-income individuals if this requires providing an exchange value (a premium) that is beyond the means of applicants, or if they are required to present identification documents (such as utility bills) that they do not have. Queue rules may disadvantage the
vulnerable and migrants specifically, as in the USA where legal immigrants have to meet additional criteria (such as employment duration) to qualify for food stamps, despite higher average poverty rates (Schwartz, 2001), or in India where Smita (2006, p. 66) reports that poor seasonal migrants are excluded from most programmes, despite being the ‘most disadvantaged’. Another example is food distribution systems that require complex processes of registration that may exclude those with little time or who are illiterate, who again may be those most in need of the distribution (see Chapter 10 on the Public Distribution System in India). Or, we could ask, are some of those who gather outside a church for alms better able to reach the attention of the alms-giver, perhaps because they are able to take their place at the front of the queue through strength or know-how?

This chapter has set out a framework for analysing access to social provisioning through a range of distribution structures (we apply this framework explicitly in Chapter 6). Recognizing the connections between the sources of risk and threat that demand provisioning, and social provisioning itself, research must take a critical approach to provision from markets, formal schemes, networks and personal charity. Given that migrants are often more exposed to threats, it is unsurprising that they are less well incorporated into social provisioning. Just as in the job market, formal rules may exclude migrants from provisioning, while informal rules, discrimination or negotiations may disadvantage them, or they may be adversely incorporated and dependent, lacking the political, social and economic certainty to protest.

Indeed, the issue of migrants’ access to social provisioning is irrevocably linked to politics. The government of Delhi has been wary of issuing permanent ration cards to migrants because they are expected to return home, and it was thought that formally entitling migrants to ration cards would encourage migration, putting a greater strain on Delhi’s stretched public services or increasing competition with current residents for jobs. For similar reasons, immigration hubs such as the UK and South Africa are concerned about extending social benefits to ‘foreigners’. The issue concerns rule-setters’ interests and perceptions about state sovereignty and the sanctity of territorial borders, as well as social spending targets. Do they consider migration worth encouraging? Do they desire migrants as potential political constituencies? Can they build access structures to achieve these goals? Or do they, alternatively, perceive a value in a subdued labour force, and therefore design access structures to disorganize, confuse and subdue migrants? On the other hand, do migrants have an interest in subverting the system and what incentives do migrants have to engage in ‘proper’ legal and political access as compared to pursuing any means to ensure physical access? The vibrant discourse around social protection entitlements and rights could usefully incorporate these questions in taking the debate on access forward.
Notes

1 Pareto efficiency describes a situation where it is not possible to make anyone better off without making someone else worse off.

2 For a range of evidence supporting this theory, see Elson (1999), Anter and Hein (1955), and Hodgson (1984).

3 We are grateful to Klaus Kapuy for pointing this out.

4 See de Haan et al. (2002) on the importance of kinship networks in Mali for access to food and housing, and Zohry (2002) on the Egyptian experience of network-based help with finding residence, employment and new community. Other examples are in King (2003), Mosse et al. (2002) and Rogaly et al. (2002).

5 The resource itself can also be stigmatized. In some African communities, accepting food marks poverty, where accepting cash does not (Dorward et al., 2006).
References


